

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Applications of AT&T Inc. and DIRECTV)	MB Docket No. 14-90
for Consent To Assign or Transfer Control of)	
Licenses and Authorizations)	

INDEPENDENT COMPLIANCE OFFICER'S COMPLIANCE REPORT
ON AT&T/DIRECTV MERGER CONDITIONS
SEPTEMBER 23, 2016

TABLE OF CONTENTS

INTRODUCTION.....	1
EXECUTIVE SUMMARY	3
METHODOLOGY	4
APPROACH TO OBSERVATIONS AND RECOMMENDATIONS.....	8
AT&T COOPERATION WITH THE ICO	8
OBSERVATIONS ON AT&T’S COMPLIANCE WITH MERGER CONDITIONS.....	9
1A. FTTTP CONDITION	9
1B. E-RATE CONDITION	25
2. NON-DISCRIMINATORY USAGE-BASED PRACTICES CONDITION	36
3. DISCOUNTED BROADBAND SERVICES PROGRAM CONDITION.....	41
OBSERVATIONS ON AT&T’S COMPLAINT REPORTING PROCESS	55
SUMMARY OF RECOMMENDATIONS.....	60

INTRODUCTION

On July 24, 2015, the Federal Communications Commission (“FCC” or the “Commission”) issued an order (the “Merger Order”)¹ approving the merger of AT&T with DIRECTV (as a combined entity, “AT&T” or the “Company”), subject to certain conditions (the “Conditions”). Appendix B of the Merger Order sets forth the Conditions and requires the Company to engage an independent, third-party compliance officer.² Donald K. Stern, Esq. of Affiliated Monitors, Inc. (“AMI”) was identified as the Independent Compliance Officer (“ICO”) pursuant to an agreement between AT&T and the Commission’s Office of General Counsel, who approved the selection.³ Staff from AMI were likewise approved to assist the ICO in the discharge of his duties. The ICO is responsible for evaluating the Company’s compliance with the Conditions and is required to submit a report within 60 days of receiving each of the semiannual reports that the Company must submit as part of its compliance obligations under the Merger Conditions.⁴ The ICO received the Company’s First Report⁵ on January 27, 2016, filed the First ICO Report⁶ on March 28, 2016, and received the Company’s Second Report⁷ on July 25, 2016.

¹ *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131 (2015).

² Merger Order App. B (cited hereafter as “Appendix B” or “App. B”) § VII.3.

³ Public Notice, *Independent Compliance Officer Identified in Accordance with AT&T-DIRECTV Merger Condition*, DA 15-1207 (Oct. 23, 2015).

⁴ The ICO’s report “shall include a detailed description of the Company’s efforts during the relevant period to comply with the conditions and will specifically meet the reporting requirements for the conditions set forth in this Appendix B.” App. B § VII.3.e.

⁵ AT&T Inc. Semi-Annual Compliance Report on AT&T/DIRECTV Merger Conditions dated January 25, 2016 (the “First Report”).

⁶ Independent Compliance Officer’s Compliance Report on AT&T/DIRECTV Merger Conditions dated March 28, 2016 (the “First ICO Report”).

In this second report (the “Second ICO Report”), the ICO makes observations and a limited number of recommendations based on a review of AT&T’s reported progress on the following Conditions:⁸

1. Fiber to the Premises (“FTTP”) deployment to 12.5 million mass-market customer locations within four years (the “FTTP Condition”). App. B § III.2.(a).
2. The offer of 1 Gbps FTTP Service (“Gigabit FTTP Service”) to any E-rate eligible school or library located within or contiguous to a distribution area in which the Company deploys FTTP-based service (the “E-rate Condition”). App. B § III.2.(d).
3. The prohibition on favoring the Company’s own Video Programming (as defined in Appendix B) services, including through the exemption of such services from usage-based allowances (the “Non-discriminatory Usage-Based Practices Condition”). App. B § IV.2.
4. The establishment and commencement of a program to substantially increase broadband adoption in low-income households throughout the Company’s wireline footprint (the “Discounted Broadband Services Program Condition”). App. B § V.2.

What follows is a description of the methodology of the ICO’s data collection and analysis activities employed since the First ICO Report was filed in March 2016, and a presentation, organized by Condition, of observations and recommendations for improving compliance, reporting, and the ICO’s own monitoring activities during the next reporting period.⁹ Where useful, the ICO points out specific plans for ongoing verification of the Company’s activities under the Merger Conditions.

⁷ AT&T Inc. Semi-Annual Compliance Report on AT&T/DIRECTV Merger Conditions dated July 25, 2016 (the “Second Report”).

⁸ For purposes of the ICO’s Second Report, the ICO has not focused on AT&T’s compliance with the Condition related to internet interconnection disclosure, which is the subject of a separate analysis by an “Independent Measurement Expert.” See App. B § V.2.

⁹ See App. B § VII.3.d. (“The Independent Compliance Officer shall have the power and authority to review and evaluate the Company’s Implementation and Compliance Plan and any related materials, and recommend to the Company changes to address any perceived deficiencies in the Plan. Any such recommendations shall be included in the Independent Compliance Officer’s Compliance Reports.”).

EXECUTIVE SUMMARY

As anticipated in the First ICO Report,¹⁰ over the last six months the ICO has begun validating the Company's processes for complying with the Merger Order and independently testing data reported in both the First Report and the Second Report. As detailed within this report, the ICO found that AT&T has met the specific reporting requirements called for in the Merger Order, described its compliance activities to date, and provided explanations in the few cases where there is no activity to report.¹¹ In addition, the ICO notes that AT&T has fully responded to recommendations contained in the First ICO Report,¹² including the formal documentation of FTTP and E-rate reporting processes. Through the course of its ongoing monitoring, the ICO has deepened its examination of the processes used to track FTTP deployment and conducted field tests to confirm FTTP deployment in six additional metropolitan areas; continued to examine under the E-rate Condition the process for identifying covered schools and libraries, reviewed all AT&T responses to Form 470 requests to date, and determined a methodology for substantive review of Gigabit FTTP Service deployment to E-rate eligible schools and libraries; engaged in a further review of the Company's processes for complying with the Non-discriminatory Usage-Based Practices Condition reporting; and evaluated and tested AT&T's launch and rollout of the Discounted Broadband Services Program against Merger Order requirements.

¹⁰ See, e.g., First ICO Report at 3.

¹¹ For example, due to the timing of the E-rate season, AT&T is not required to provide a CSV file reflecting deployment of Gigabit FTTP Service to E-rate eligible schools and libraries in the Second Report.

¹² See First ICO Report at 55 (summary of recommendations).

METHODOLOGY

After completing the review described in the First ICO Report, the ICO continued to follow the work plan designed to track AT&T's compliance with each Condition. That work, ongoing since the issuance of the First ICO Report, relies on the following activities:

- Requests for information associated with each Condition, both as follow-up on recommendations contained in the First ICO Report and in response to the Second Report;
- Meetings with the Project Management Team and each individual working team to review the processes the Company has established to meet each Condition, and results under each Condition to date;
- Document review, data analysis, and related testing and verification; and
- Field visits.

Requests for Information and Detailed Informational Meetings

As the ICO's review has delved more deeply into the Company's reporting processes and engaged in increased substantive testing, so too has the level of information exchange expanded over the last six months. The framework established for this exchange during the review of the First Report is productive and efficient. The Company continues to respond to ICO requests, promptly setting meetings that include the appropriate AT&T business staff and officers, representatives of the operational compliance and legal functions, and outside counsel; to provide detailed presentations that included samples, demonstrative aids and illustrations, including live demonstrations of data accumulation and queries of internal databases; and affording in each case adequate time for the ICO to ask follow-up questions.¹³ These meetings are essential to the ICO's understanding of AT&T's processes as they are established (and

¹³ The Company continues to provide copies of these presentations, making them electronically available to ICO representatives through outside counsel's extranet portal, and posted additional documents on that portal in response to additional requests for information arising from the various discussions.

improved upon), both for complying with the Merger Conditions and for compiling the data needed for semiannual reporting.

The ICO submitted three distinct requests for information on April 13, July 12, and August 25, 2016 bearing on each Condition, in addition to pursuing follow-up on earlier report recommendations. In each case, the Company provided documents (both existing business records and materials prepared specifically to respond to requests) to the ICO's questions and recommendations. The ICO reviewed these materials (as noted below) and was provided opportunities to follow up with the appropriate AT&T team members in order to seek clarification and to pose additional questions.

Four meetings on the FTTP Condition were conducted over AT&T's remote screen-sharing tool on May 19, August 9, August 23 and August 24, 2016, and included senior members of the Company's Entertainment Group, Construction and Engineering (C&E) group and AT&T's overall Project Management Team. Among other things, these meetings have permitted the ICO to interact with members of the C&E team as the latter perform database queries in real time, an essential element of the ICO's validation of both the substantive and procedural aspects of FTTP Condition reporting.

The AT&T E-rate Condition working team, including members of the Company's Business Solutions team and the Project Management Team, met with the ICO over the course of three conference calls convened via AT&T's screen-sharing tool on May 13, August 10, and September 1, 2016. These meetings permitted the ICO to review the Company's documented Form 470 monitoring process and to observe the procedures used to identify schools and libraries covered by the E-rate Condition. Similarly, the ICO met with members of the AT&T Project

Management Team via screen-share on June 1 in response to requests for information related to the Non-discriminatory Usage-Based Practices (“NDUP”) Condition. The ICO also met with members of the Company’s dedicated “Access from AT&T” team via screen-share on June 1, 2016 to discuss progress following the April 2016 launch of the Discounted Broadband Services (“DBS”) Program, posed follow-up questions aimed at determining the best methods for monitoring Condition compliance, and worked with the Company to select samples of call-center recordings for purposes of field observation.

Document Review and Data Analysis

The ICO reviewed all of the material provided with the Second Report, as well as documents provided in response to the ICO’s recommendations and in connection with the ICO’s various follow-up information requests. The ICO was able to review the reporting processes and confirm certain data contained in the CSV file regarding FTTP deployment (included as Exhibit 1.1 to the Second Report) for internal consistency and completeness. The ICO has also been working with AT&T to develop methods for independent validation of additional information. The ICO reviewed (and later observed a real-time iteration of) the automated process for identifying covered schools and libraries under the E-rate Condition. In addition, the ICO reviewed numerous documents supplied by the Company related to its compliance with the NDUP Condition and the DBS Program Condition.

The ICO has designed, or is in the process of designing, methods of independent testing of AT&T’s FTTP deployment, its E-rate compliance practices, its compliance with the NDUP Condition, and the Company’s progress across the range of requirements set forth as part of the

DBS Program Condition. Some of these testing activities are already under way, while others will begin in future reporting periods.

Field Visits

Over the past six months, the ICO planned and conducted six additional field visits (as of the end of August 2016, with three additional visits planned for mid- to late-September) to confirm FTTP customer installation as reported in the deployment file included with the First Report.¹⁴ As described in more detail below, this verification process involves selecting sample customer locations from a chosen metropolitan area and visiting each customer location in the sample in order to verify each of the data fields contained in the FTTP deployment file. The ICO plans to conduct these FTTP site visits throughout the period that the Merger Conditions are in effect. The ICO plans to test samples of AT&T's E-rate deployment once the Company begins to report those results in 2017. The ICO has also engaged in field-testing of the Company's DBS Program in the form of reviewing audio recordings of customer-service calls and mailings provided to certain target groups.

One additional activity that is new for this second reporting period is the ICO's review of the Company's complaint monitoring process. As described below, the complaint review process affords the ICO with an additional opportunity to discover Condition-related issues that may warrant further attention, while also demonstrating the performance of a critical element of the Company's own internal controls.

¹⁴ The ICO intends to perform a second iteration of its geographically based cluster sampling on the deployment milestone data submitted with AT&T's January 2017 report. The field tests currently under way are based on selections of customer location data submitted with the First Report.

APPROACH TO OBSERVATIONS AND RECOMMENDATIONS

This Second ICO Report contains the ICO's observations on AT&T's compliance with each Condition, including recommendations aimed both at the Company's own improvement of processes as well as at the ICO's evaluations in future reporting periods. The ICO relates its observations and recommendations here with the acknowledgment that this marks the second round of reports for both the Company and the ICO, that the two are in regular contact and routinely discuss modifications to the evaluation process going forward, and that the ICO and AT&T are each separately in regular contact with Commission staff.

AT&T COOPERATION WITH THE ICO

The ICO recognizes that compliance with the Conditions is a significant undertaking on behalf of AT&T. Making vast quantities of the Company's information available, and in a form that is amenable to analysis and comment by the ICO, requires more effort still. The staff and leadership of AT&T have been cooperative and supportive of the ICO, particularly with regard to (a) communicating the importance of the ICO's review, and encouraging cooperation, transparency and active participation; (b) accommodating requests for documents, scheduling meetings, and arranging site visits; and (c) expending considerable time and resources handling the logistics for field and other visits. The Company's dedicated team for Merger Condition compliance continues to demonstrate by its words and actions a commitment to meeting the Conditions and assisting the ICO in discharging his duties.

OBSERVATIONS ON AT&T'S COMPLIANCE WITH MERGER CONDITIONS

1A. FTTP CONDITION

FTTP Observation 1: AT&T's FTTP reporting satisfies Condition requirements.

The ICO reviewed the Second Report and Exhibits 1.1 through 1.4 with reference to the reporting requirements set forth in Appendix B of the Merger Order.¹⁵ The Second Report provides the number of customer locations where FTTP service has been deployed as of June 30, 2016, and includes details indicating compliance with the subconditions relating to greenfield deployment, upgrades from FTTN technology, and the use of Connect America Funds (CAF). *See* Second Report at 10-15; App. B. §§ III.2.a.-c., 3.a.(i). The CSV file submitted as Exhibit 1.1 to the Second Report contains each of the fields prescribed in Appendix B § III.3.a.(ii), as well as additional information (distribution area (DA), service address, and a unique “service address identification number”).¹⁶ The Second Report contains “explanatory notes” (App. B § III.3.a.(iii)) addressing AT&T's improvements to its data-reporting processes, some of which indicated changes to reported customer location data provided in the First Report. These revisions result from “changes, corrections and improved data . . . from the field” (*see* Second Report at 11) and are described in more detail below. Finally, the Second Report contains “other information” that the ICO has found “reasonably necessary to report on compliance with this condition” (App. B § III.3.a.(iv)), such as formally documenting the data-merging and quality-control processes that AT&T employs to prepare both the CSV file and its semiannual

¹⁵ Statements of each Condition and associated reporting requirements may be found in Appendix B to the Merger Order, in each of AT&T's semiannual reports, and in the ICO's First Report.

¹⁶ AT&T's use of a unique service address identification number (“SAIC”) for each customer location permitted the ICO to conclude that the CSV file contains no duplicate SAIC entries, and that the deployment total reported in the text of the Second Report corresponds to the number included in the CSV file.

compliance reports. AT&T has directly addressed the conditions set forth in subsections III.2.a.-c. of Appendix B and delivered a report that satisfies subsection 3.a.

FTTP Observation 2: AT&T has reported updated FTTP deployment totals, including revisions of previously reported data.

The Second Report includes several exhibits related to FTTP deployment totals as of June 30, 2016. The exhibits demonstrate both the dynamic nature of the underlying data itself, as well as the Company's ongoing efforts to improve accuracy through better reporting processes. Consequently, the Second Report not only reports FTTP deployments for the period ending June 30, 2016, but also explicitly¹⁷ revises and restates deployments reported in its First Report for the period ending December 31, 2015.

As for the raw total of customer locations, the Second Report states that "Exhibit 1.1 contains information for each of the [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION] total Customer Locations to which FTTP service has been deployed in satisfaction of this Condition as of June 30, 2016." Second Report at 10. As with its review of the First Report, the ICO was able to verify that the CSV file is internally consistent, i.e., it contains no duplicate customer locations, and all required fields are completed. The ICO also took steps to verify independently the reported number of greenfield locations, the reported number of locations that constitute FTTN upgrades, and the exclusion of any deployments funded by CAF subsidies.¹⁸

¹⁷ The ICO notes that the Company's decision to spell out each revision and special category of reported information is a significant aid to the verification process. Because the CSV file reports FTTP deployments cumulatively, the ICO would have had to ask for additional detail if AT&T had not provided it in the first instance.

¹⁸ FTTP Observation 4, below, suggests a process for real-time review of database queries to help confirm subcondition limits and exclusions.

With respect to revisions, the Second Report states that AT&T provided data from ordinary course databases “which may be modified or corrected from time to time,” as “these databases are routinely updated with changes, corrections, and improved data that may be obtained from the field as part of the ongoing FTTP deployment process.” Second Report at 11. AT&T states that it “plans to provide information for each of the total Customer Locations to which AT&T has deployed FTTP service in satisfaction of this Condition as of the end of that reporting period based on the data available in the ordinary course databases at that time.” *Id.*

According to the Second Report, “Exhibit 1.2 contains information for all additional Customer Locations to which FTTP service has been deployed in satisfaction of this Condition as of June 30, 2016, [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION] The exhibit contains a total of [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] locations.

The ICO confirmed that this total matches the CSV file and that none of these records overlaps with the deployment totals reported in Exhibit 1.1.

Exhibit 1.3 represents revisions to FTTP deployment totals reported as of December 31, 2015, i.e., in AT&T’s First Report. *See* Second Report at 12-13. The Company identified three categories of corrections:

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

The ICO met with data analysts from AT&T's C&E group in order to discuss each of the categories of corrections and better understand the circumstances giving rise to the discrepancies, how the discrepancies were identified, and what changes to the reporting process were made to prevent or mitigate reoccurrence. AT&T representatives noted that one factor contributing to discrepancies is that because data systems are not integrated in the ordinary course of business until the 13th of the month, reporting "final" data by January 25 strained the Company's typical data-checking processes. AT&T provided the following additional explanations:

- Identification of latitude and longitude presents a challenge in the ordinary course of business (*see* First ICO Report at 13, 15), **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION]

AT&T also explained that the necessary changes have been made to FTTP reporting processes in order to identify and correct the types of discrepancies noted above, and that updates to the process document will be provided. The Company also plans to repeat this process with each semiannual report in order to reflect changes to past reported FTTP deployment totals while reporting totals for the current period.

The ICO examined the impact of the above modifications and corrections to determine if changes to previously reported deployment totals affected compliance with the December 31 milestone requirement of 1.6 million customer locations. Based on the corrections identified in Exhibit 1.3, the total FTTP deployment count meets the 1.6 million customer-location threshold

([BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] reported in the First Report, **[BEGIN HIGHLY**

¹⁹ **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION]

CONFIDENTIAL INFORMATION]

[END HIGHLY

CONFIDENTIAL INFORMATION] from current corrections).

FTTP Observation 3: As recommended by the ICO, AT&T has documented and continues to refine its reporting processes in order to ensure accuracy in FTTP deployment reporting.

Prior ICO Recommendations

In its review of the First Report, the ICO determined that AT&T's FTTP reporting process would benefit from formal documentation and standardization to ensure accuracy and consistency, and noted his intention to review the data-cleaning activities employed by **[BEGIN**

CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

INFORMATION] See First ICO Report at 24.

Documenting and Automating FTTP Reporting Processes

The ICO had found that the system for producing the First Report depended to a significant extent on a manual process of querying databases, aligning different datasets, and running quality checks. At the time of the ICO's initial review of these processes, AT&T's C&E data analysis team explained that they were currently developing methods to consolidate and automate the query process so as to eliminate all or most of the manual elements of the data-merging process.

On May 19, 2016, the ICO met with the Company's FTTP working team to walk through AT&T's now-documented FTTP reporting process (titled "ATT FCC 1A Reporting") and an overview of the systems and queries (i.e., the process) used to generate Condition-related reports. The process was described as mostly automated, with several areas to be more extensively automated by June 2016. The Company did note that the third-party-based process for

identifying latitude and longitude was expected to remain a manual one. During further discussions on August 23, 2016, AT&T explained that while the processes expected to be automated by June 2016 had been established, the Second Report depended in large part on the earlier manual-query process to produce the CSV file. AT&T was confident that the FTTP reporting process will be automated as planned, that the automated process will be used to produce the next report, and that any changes will be reflected in an update to the process document.

The following chart supplied by AT&T demonstrates the data flow and data sources for compiling the information included in the CSV file. The Company's FTTP reporting process document includes the specific queries employed, which permitted the ICO to track how reporting requirements (including the various pieces of data that must be excluded from reported totals) were satisfied.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

Data-Cleaning Steps

During the May 19, 2016 meeting, the AT&T FFTP working team and the ICO walked through a document summarizing **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] activities, which include:

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

The above descriptions are helpful to the ICO's understanding of **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** role in providing additional assurance with respect to the integrity of the FTTP reporting process. The ICO recommends that AT&T share a summary of the results of these review activities to the ICO in the next reporting period in order to provide the ICO with a better idea of the frequency and types of errors **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** review of the Company's data.

Additional Internal Controls

Throughout this review, the ICO has emphasized the importance of the Company's own internal compliance processes. In response to the ICO's request for information about FTTP internal compliance reviews, AT&T provided an overview of "C&E Wireline Reviews," including the actual checklists used by C&E team members when conducting internal reviews of the planning, design and construction phases of AT&T buildouts, including FTTP. These C&E reviews represent an opportunity to confirm and correct data, such as location, funding source,

and type of network, that resides in the Company's databases – and that ultimately feeds into AT&T's semiannual reports. Understanding the nature of these reviews is evidence of additional procedural rigor and adds to an outside observer's confidence in the accuracy of the Company's information, both as kept in the ordinary course of business and as reported externally. The ICO noted that these internal reviews, while not focused on exactly the same issue set, do overlap the ICO's review to some degree and thereby provide additional assurance that the Company has incorporated controls designed to detect, correct, and avoid reoccurrence of errors found in the ordinary course of business.

FTTP Observation 4: Additional real-time analysis serves to verify the integrity of reported data, and more such analysis is needed.

The ICO's review of the First Report concentrated on understanding AT&T's overall FTTP data reporting system, and in particular on the data-aggregation processes relating to the numerical limits imposed on certain sub-categories of deployments. Certain special location categories²⁰ must be excluded from the reported deployment count, and upper limits are placed on other locations: upgrades to locations already receiving speeds of 45 Mbps using "fiber to the node" technology ("FTTN") cannot exceed 2.9 million locations counted toward the 12.5 million FTTP deployment total, greenfield locations cannot exceed 1.5 million of the 12.5 million deployment total, and locations built using CAF or other frozen funds (Universal Service Funds) must be excluded from the deployment total. Total FTTP deployment must also exclude schools and libraries, which are addressed by the E-rate Condition.

²⁰ Locations excluded from the FTTP deployment total include gates, ATMs and elevators, and businesses with greater than 10 employees.

Condition Limits Have Not Been Reached

The ICO reviewed the CSV file and was able to confirm that the deployment totals contained in the Second Report do not exceed the Condition limits for greenfield and FTTN upgrades. The ICO review did note that greenfield locations **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

[END HIGHLY

CONFIDENTIAL INFORMATION]

Real-Time Review of Database Queries

The CSV file does not on its own provide information sufficient to confirm the reported numbers of greenfield installations, FTTN upgrades, or exclusions of CAF-funded installations. To demonstrate compliance with these limits and to document the Company's analytic processes, AT&T provided the Structured Query Language (SQL) code for a series of queries used to generate the numbers ultimately provided in the CSV file. To support the accuracy of those numbers that could not be verified by the ICO, AT&T convened a meeting via screen-share to further demonstrate in real time the queries and database interfaces used to identify completed installations. In this way, the ICO was able to observe how customer location details are obtained from a second query, generating a file that is sent to an AT&T internal group tasked with appending information derived from external vendors. A second real-time demonstration showed the logical operators used to report the number of greenfields and the total number of FTTP installations. Thus, AT&T data analysts were able to document the numbers provided in the July 2016 report and to conduct a number of ad hoc analyses in real time at the ICO's request that generated totals that were consistent with those obtained through the ICO's own

analysis of the CSV file. That the AT&T analysts were able to replicate their numbers and flexibly adapt to the requests of the ICO demonstrates the capabilities and the reliability of the AT&T data systems.

Use of CAF

According to AT&T, Exhibit 1.1 (the main FTTP deployment file) to the Second Report does not contain any FTTP customer locations built using CAF or other frozen funds. Because that claim cannot be verified through interrogation of the CSV file alone, the ICO initiated a discussion with AT&T regarding efficient methods of testing the Company's data for use of CAF funds. On August 9, 2016, AT&T provided to the ICO "CAF I and CAF II Wireline Build EOY 2015" spreadsheets, along with access to its FCC Form 481s for each of the 21 states in its wireline footprint.²¹ AT&T explained that the fact that a location is listed on a "CAF report" does not necessarily mean that AT&T has deployed FTTP to that location and that it did so using federal USF support. In other words, the stand-alone CAF reports are theoretically over-inclusive. Consequently, there could be matches between the CSV and the Form 481 that would require further investigation, a significant manual undertaking.

AT&T has provided summaries of database fields where funding sources such as CAF or USF are identified, and has explained that FTTP locations where those funds are used are excluded by their queries. Additionally, the ICO's real-time review of AT&T databases discussed above included a discussion of queries related to funding sources. As with greenfield and FTTN-upgrade limits, live demonstrations of database queries will provide an opportunity in future periods to confirm the accuracy of the CSV file vis-à-vis the underlying databases.

²¹ Together, these report the geocoded locations meeting the CAF broadband service requirements in CAF-eligible census blocks as of the end of 2015.

The ICO will consider for the next reporting period specific queries of supporting databases in order to further confirm the number of greenfield installations, FTTN upgrades, and funding-source exclusions, and will look to AT&T to provide opportunities to conduct those queries.

FTTP Observation 5: Initial field verification testing tends to confirm the reliability of reported FTTP information, but more testing is needed.

To conduct independent verification of the accuracy of AT&T's reported FTTP deployment, the ICO built upon the experience gained during the initial FTTP field visits described in the First ICO Report. Once again, the ICO approached FTTP field-testing with two objectives: first, to confirm reported FTTP deployments by visiting a sample of customer locations drawn from the CSV file, and second, to continue to refine the sampling and testing methodology so as to achieve an appropriate balance between statistical rigor and practicality in the testing process.

Sampling Methodology

To further pilot the testing methodology and sampling plan that commenced before the First ICO Report, the ICO analyzed the over 1.6 million records contained in the CSV file in order to select, for the sake of efficiency in the field, metro areas with the **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** Austin, TX, Houston, TX, and Atlanta, GA yielded the **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** For Austin, Houston, and Atlanta, the

²² Raleigh, North Carolina was identified as part of this same analysis and was visited in the period leading up to the First ICO Report.

ICO randomly selected 50 distribution areas (DAs) in each city. Within each selected DA, the ICO selected the tenth customer location listed. The ICO provided a working sample of 50 customer locations (drawn from each city's sample of 50 DAs) to the ICO's telecommunications consultant (the "ICO SME"). The ICO SME examined the sample of 50 customer locations and plotted the sites on Google Earth. For the sake of efficiency, any outliers likely to cause excessive travel time were excluded from the working sample to arrive at a final list of sites to attempt to inspect in a one-day field visit.

The four pilot sites provided sufficient experience to permit small improvements to the ICO's field-testing methods. With the benefit of this information in hand, the ICO was able to turn to generating a sampling methodology that would support regular periodic field visits. The ICO constructed a sampling frame for verifying installations using addresses from Exhibit 1 to the First Report.²³ Sixteen cities or geographic areas were randomly selected, DAs within a selected geography were in turn randomly selected, and addresses within each DA were likewise randomly selected. Of the 16 geographic clusters, three were selected and inspected in time to be included in this report: Chicago, IL, Indianapolis, IN, and Westerville OH. This revised sampling methodology relies on smaller clusters of DAs within a selected geographic area, which permits a random selection of installations with equal probability of selection that are also more likely to be geographically proximate (thus reducing point-to-point travel time and increasing site-visit efficiency).

²³ As noted above, the ICO plans to generate another sample based on data submitted in AT&T's next semiannual report.

Pre-Site-Visit

The ICO provides the Company with a list of the DAs for each sampled location (but not the locations themselves) approximately one week in advance of each visit. This allows the Company to prepare in advance a list of fiber serving terminals (FSTs) for each DA that identifies which FSTs are intended to serve which customer locations. Addresses of multi-dwelling unit (MDU) locations are also provided to AT&T approximately one week in advance so that access (to telecom closets, etc.) may be arranged as needed. Actual addresses are supplied approximately two business days in advance in order to arrange local field technician support for testing of FSTs where no customer is present.

Field Visit Steps

In the field, the ICO SME employs the same testing methodology as with the pilot site-visits described in the First ICO Report. The ICO SME, accompanied by an AT&T field technician, travels to the address as plotted by the provided latitude and longitude data (“lat/long”), and confirms that the lat/long matches the FTTP address. The ICO SME identifies which installed FST serves the selected sample location based on engineering information provided by AT&T, and tests for fiber optic cable plant continuity to the PFP. If any customer location (whether the sampled customer location or some other customer location) is in fact connected to the FST, the continuity test step is omitted, because the fiber connection itself demonstrates that AT&T is not only technically able to provide FTTP service, but is in fact providing it. If there are no connections to the FST, the AT&T technician tests for fiber optic cable plant continuity to the PFP. The FST continuity testing is conducted using a dB loss light meter to measure light power loss between the PFP and the FST. Any value under **[BEGIN**

HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] loss is considered acceptable for the line to go into service. Each step of the field verification process is documented and photographed as appropriate.

Field Visit Results

For the six cities identified, a total of 134 properties were selected and 71 visited. The visited properties included 42 single family homes, 26 MDU locations, and two small businesses. With the exception of two properties, all locations met the criteria for inclusion in the FTTP site count. One property could not be verified due to an address-matching error, and the other was in a gated community that the AT&T field team was unable to access without owner permission.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

These errors (none of which was material to the ultimate question of total deployment count), and other issues related to the conduct of the site visits, were discussed during post-visit debrief sessions between the ICO SME and the AT&T C&E and FTTP working teams. The

Company has investigated root causes in each case and taken steps to mitigate the recurrence of similar errors. The ICO expects such debriefs and resulting process improvements to continue in subsequent reporting periods.

FTTP CONDITION RECOMMENDATIONS

1. The ICO recommends that the Company provide an updated FTTP reporting process document when complete.
2. The ICO recommends that the Company provide a summary of the results of the FTTP data-cleaning review.
3. The ICO recommends that the Company provide further opportunities for live demonstrations of queries that support reported compliance with FTTP Condition deployment totals as well as specified subcategory limits and exclusions.

1B. E-RATE CONDITION

FTTP E-rate Observation 1: AT&Ts E-rate reporting satisfies Condition requirements.

The ICO has reviewed the Second Report and Exhibits 2, 3 and 4 with reference to the reporting requirements set forth in Appendix B. The Second Report includes a list of covered schools and libraries to which AT&T has provided a bid for FTTP service (Exhibit 2), and copies of the Form 470s associated with each bid (Exhibit 3). The Second Report states that due to the regular calendar governing the submission of Forms 470 by schools and libraries seeking bids pursuant to the E-rate program, AT&T has no data to report for the June 30, 2016 period on the numbers or locations of schools and libraries to which Gigabit FTTP Service has been deployed, or a corresponding CSV file detailing the information required by Appendix B § III.3.b.(iii).²⁴

The Second Report includes a description of outreach activities, including the efforts of AT&T's

²⁴ The Second Report notes, correctly, that the Merger Order does not require AT&T to have deployed Gigabit FTTP Service to covered schools and libraries pursuant to this Condition as of June 30, 2016. *See* Second Report at 21. Instead, the Merger Order requires AT&T to report on any deployments that have occurred during the reporting period. *See* App. B § III.3.b.(ii)-(iii). The timing of the E-rate season is such that there was no reportable Gigabit FTTP Service deployment to covered schools and libraries either during the first reporting period or the second (i.e., through June 30, 2016).

existing sales channel to promote awareness of the opportunity for covered schools and libraries to bid for Gigabit FTTP Service, an example of its direct mail and email outreach efforts to covered schools and libraries (Exhibit 4), and a list of technology conferences (Exhibit 5) at which AT&T sales representatives plan to interact with prospective E-rate customers. *See* Second Report at 22-24; App. B § III.2.d. In summary, ATT has directly addressed the conditions set forth in subsection III.2.d. of Appendix B and delivered a report that, in light of the E-rate calendar, satisfies subsection 3.b.

FTTP E-rate Observation 2: AT&T has followed and documented its process to address Condition requirements and to anticipate reporting actual E-rate deployment.

To determine compliance with the Condition, the ICO continued to meet with representatives of AT&T Business Solutions team, the Entertainment Group and the Program Management Team, to request and review documentation of policies, procedures and process steps, and to determine whether AT&T had established a reliable process for addressing Condition requirements, including accurate and consistent reporting of E-rate tracking and deployment results (once deployment reporting begins). The ICO was able to confirm that AT&T continues to follow the practices identified during review of the First Report and has leveraged its existing E-rate compliance processes in order to identify schools and libraries covered by the Condition, to track Form 470 requests for Gigabit FTTP services, and to submit responsive bids. The ICO also confirmed that AT&T has established and utilized its program that includes both direct outreach to covered schools and libraries and an effort to promote more general awareness of AT&T's services among actual and potential E-rate customers.

Prior ICO Observations

In its review of the First Report, the ICO stated that a top priority for the coming reporting period should be for AT&T to formally document data collection, analytic processes, and report standardization. The ICO observed that strengthening internal controls would serve to bolster confidence in the accuracy and reliability of future submissions and that a formally documented E-rate reporting process would help ensure consistency in reporting over the entirety of the Merger Order’s four-year timeline. *See* First ICO Report at 35.

Form 470 Process Now Documented But Still Requires Manual Input

In response to the ICO’s observations, recommendations and additional requests for information, AT&T provided formal documentation of its “470 Monitoring and Support Process.” The document addresses the Form 470 process, beginning with identifying the AT&T office and manager responsible for the process and the general steps used to identify the Billing Entity Number (BEN) for individual schools, libraries and those found within consortiums, and to maintain the BEN data within the **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] tool in order to identify Forms 470 that AT&T must respond pursuant to the Condition. The process also addresses tracking, responding to and monitoring Forms 470 to ensure that bids comply with AT&T policy. Finally, the document addresses the semiannual reporting requirements and additional steps to promote compliance with the Condition.

²⁵ **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION]

While this detailed process document should promote consistency and accuracy in reporting under the E-rate Condition, some manual steps remain. These manual steps by their very nature will continue to present a challenge. For example, the Second Report details the degree of activity required for identifying the BENs of schools and libraries whose Forms 470 require a response.²⁶

Control and Quality Reviews of Bidding Process

The ICO also requested and received details and clarification regarding the quality control reviews AT&T conducts with respect to the E-rate bidding process. In response to a request for information, the ICO received a summary of the steps taken by AT&T's relevant sales operation team members in connection with the bidding process. **[BEGIN CONFIDENTIAL INFORMATION]**

²⁶ "Because there is not an automated search mechanism to facilitate this process, the Working Team conducted research on the National Center for Education Statistics website as well as public internet-based research about each identified covered school and library where a BEN could not be determined in the USAC database. AT&T used the research results to determine whether any such individual covered school or library had more than one BEN, and also whether it was associated with another entity, such as a school district or library system, that might itself have filed a Form 470 under which the individual covered school or library might purchase E-rate services. AT&T flagged over **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** BENs identified for those individual schools and libraries, school districts, and library systems in its database used in the ordinary course of business to respond to Form 470s." Second Report at 18-19.

[END CONFIDENTIAL

INFORMATION]

Because pricing bears on the competitiveness of AT&T's E-rate offerings, the ICO also requested and received an explanation of how the AT&T pricing policy interacts with Form 470 responses. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] AT&T

provided the following pricing process map:

REDACTED—FOR PUBLIC INSPECTION

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

Process for Reporting on Deployment of Gigabit FTTP Service to Covered Schools and Libraries

As described above, the final steps in the Form 470 Monitoring and Support Process addressing installation, billing and preparation of the Condition-required CSV file are still in development. The ICO observed that the 470 Monitoring and Support Process document includes specific steps to produce the report required by the Condition and the specific fields to be included in the CSV file. As discussed below, the ICO plans to review and test the Company's complete E-rate process (i.e., from identification of eligible entity through tracking of Form 470 and responsive bids, contract award, and Gigabit FTTP buildout) in response to AT&T's first full E-rate deployment reporting.

Review of AT&T Response to Forms 470

While review of actual deployment data must await the January 2017 semiannual report, the ICO was able to review Exhibit 2 to the Second Report, the "List of Form 470s to which AT&T has provided a bid to serve a covered school or library with 1 Gigabit FTTP Services." This analysis provided the ICO an opportunity to review the services requested and to gain some understanding of AT&T's responsiveness. The ICO found no evident discrepancies with respect to the list of schools and libraries. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] in order to respond to schools or libraries that, for instance, requested

internet speeds in a range that includes 1 Gbps but begins at a lower speed than AT&T would be required to respond to by the terms of the Merger Order.²⁷

Process for Conducting “Affirmative and Adequate Outreach”

The ICO reviewed documentation that demonstrates that AT&T continued to follow the practices described in its First Report (*see* First ICO Report at 33-34) for providing information about available E-rate products and services to existing and potential customers in the ordinary course of business.

The Company provided the ICO with an overview of outreach activity and examples of outreach materials sent to school and library locations, as well as flyers to be handed out at technology conferences attended by AT&T sales operations team members. According to summaries supplied by AT&T in response to the ICO’s requests for information, during the most recent E-rate season, AT&T announced the availability of 1 Gbps FTTP Service through the E-rate program via direct mail to **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** schools and libraries. AT&T also directly emailed **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** schools and libraries using email addresses identified from Form 471 filings found in the Universal Service Administrative Company (USAC) system. Exhibit 5 to the Second Report lists state and national technology conferences

²⁷ For example, where a request was made that was different than the internet speed of 1 Gbps required to be offered by AT&T, the Company provided the following explanation: **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

[END HIGHLY CONFIDENTIAL INFORMATION]

and events where the AT&T sales operations team anticipates meeting with school, library and local officials for the purpose of promoting AT&T services.

FTTP E-rate Observation 3: AT&T has documented its process to address Condition requirements for identification of schools and libraries located within or contiguous to a distribution area in which the Company deploys FTTP-based service.

In order to comply with the Condition, AT&T must first develop a comprehensive list of schools and libraries “located within or contiguous to a distribution area” (App. B § III.2.d.) where the Company has deployed FTTP service.²⁸ This list is the foundation of the Company’s E-rate Condition compliance, as it represents those schools and libraries (a) to which AT&T must conduct outreach activities under the Condition and (b) that it must monitor for submitted Forms 470 (which, if requesting Gigabit FTTP Service, must be bid upon, tracked, the facilities built if awarded, and the buildout reported in a CSV file upon deployment).

In its review of the First Report, the ICO noted a need for additional review of the processes used to develop the list of covered schools and libraries. *See* First ICO Report at 35-36. In response to these ICO’s recommendations and additional requests for information, AT&T provided documentation to the ICO and convened several meetings aimed at demonstrating the mapping overlay process used to identify schools and libraries located within (or contiguous to) AT&T’s current distribution areas and future build plans.

AT&T provided the “Determination of Intersection Between E-rate Locations & AT&T U-Verse with FTTP Build Plan” (May 2016) which “documents details of the data sources, applications and processes used by the AT&T Entertainment Group to determine which schools

²⁸ Pursuant to discussions with FCC staff, AT&T in May 2016 implemented a new methodology for determining when it will treat a school or library as contiguous for purposes of this Condition: “AT&T considers a school or library to be contiguous for purposes of the Condition if the 250 foot radius of the geographic coordinates of the school or library intersects with the boundary of an adjacent DA in which AT&T has deployed, or plans to deploy, FTTP as of the next July 1st.” Second Report at 17.

and library ('eRate') locations fall within or are contiguous to the AT&T FTTP build plan.” Entertainment Group staff use applications to combine school and library locations drawn from National Telecommunications & Information Administration (“NTIA”) broadband mapping data with AT&T distribution area boundaries depicting FTTP build completions and FTTP build plans. That data is converted as necessary into geographic information system (GIS) format and combined for analysis. The chart below demonstrates the data and sources used to identify the universe of schools and libraries that must be tracked pursuant to the E-rate Condition. At the ICO’s request, AT&T provided a live demonstration of the data-merging process that yields the E-rate database (which is then handed over to AT&T’s E-rate working team). The Entertainment Group also demonstrated scenarios where a school or library was contiguous to and not contiguous to a distribution area.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

FTTP E-rate Observation 4: Additional analysis is required to independently verify the integrity of reported data.

AT&T has now provided documented processes for identifying covered schools and libraries in order to establish the target population for required outreach efforts and Form 470 tracking. These processes increase the ICO's confidence that Condition reporting requirements

will be met. With this much established, AT&T is in a better position to submit its next report on the E-rate Condition to independent verification.

To that end, the ICO has engaged in discussions with the AT&T E-rate working team in order to develop a methodology to test E-rate Condition compliance on a linear basis (i.e., from identification of covered schools and libraries through buildout) using data submitted in AT&T's next semiannual report. The outcome of these discussions is an anticipated testing methodology (subject to refinement) that will involve the selection of a sample of reported E-rate FTTT deployment to be subjected to a thorough review of mapping/identification, outreach, Form 470 tracking, bidding, and testing of the reported data contained in the CSV file.

2. NON-DISCRIMINATORY USAGE-BASED PRACTICES CONDITION

NDUP Observation 1: AT&T's NDUP reporting satisfies Condition requirements.

The ICO has reviewed the Second Report and Exhibit 7 with reference to the requirements set forth in Appendix B. The Second Report states that AT&T does not discriminate in favor of its own Video Programming Services, and has fully complied with the Condition throughout the second reporting period. *See* Second Report at 26. The Second Report includes a description of the terms and conditions of its usage-based allowances and the Company's procedure for enforcing them. *See* First Report at 26-28. Exhibit 7 includes a variety of information related to AT&T's usage allowance practices: a copy of AT&T's high-speed internet terms of service; a description of network practices and performance characteristics; a "screenshot" of the Company's online data calculator; customer "frequently

asked questions”; a description of the then-current monthly usage allowance tiers;²⁹ webpages reflecting data-plan bundling options for new and existing customers; and a sample bill reflecting monthly internet usage. *See* Second Report at 28-29 and Ex. 7. In summary, ATT has addressed the conditions set forth in subsection IV.2. of Appendix B and delivered a report that, at this point, satisfies subsection 3.

NDUP Observation 2: AT&T appears to have designed a process tailored to achieve compliance with the Condition.

Prior ICO Observations

The ICO’s First Report anticipated seeking more information about (a) the Company’s training of personnel regarding the NDUP Condition, (b) “offer and promotion” compliance, (c) the workings of the Company’s complaint processing operations, (d) what “Video Programming” services AT&T and DirecTV provide that could implicate the Condition, and (e) AT&T’s offers of discounted bundles for integrated services. *See* First ICO Report at 41.

Video Programming Services and Discounted Bundles

The ICO posed more specific follow-up questions about each of these items during the current reporting period. The Company responded with additional documents and a screen-share meeting attended by members of AT&T’s NDUP Condition working team and the Project Management Team. These materials and the meeting covered each of the areas the ICO had

²⁹ On May 23, 2016, AT&T increased its data caps for broadband internet customers. The new policy included an option to purchase unlimited data for \$30, or to receive unlimited data free of charge in the event the customer elects to bundle high-speed internet with video (DirecTV or AT&T U-verse). *See* Second Report at 26-27. The ICO reads the Merger Order as expressly providing for these unlimited-data options. *See* App. B § IV.2 (“[T]his condition does not prohibit the Company from offering discounts for integrated bundles of the Company’s U-verse or DIRECTV satellite Video Programming service . . . with the Company’s Fixed Broadband Internet Access Services.”) Since the Second Report, the Company announced yet another increase in usage limits effective August 21, 2016. *See Inside Connections Blog*, “More Data for More Customers,” (July 29, 2016), http://about.att.com/inside_connections_blog/more_data (last accessed September 14, 2016).

identified. AT&T provided details about the various video services offered by DirecTV and AT&T (U-verse), which helped to better contextualize the Condition by demonstrating the video offerings that could be favored by hypothetical discriminatory conduct.³⁰ These include DirecTV and U-verse channel packages and so-called “TV Everywhere” applications that can be viewed on mobile devices. The Company also clarified its use of discounted bundles as contemplated by the Condition, a discussion that was aided by the real-world example of the discounted bundle offering for unlimited data-usage, which went into effect shortly before the date of the ICO’s meeting with AT&T’s NDUP team.³¹

Training

The ICO requested information about the Company’s training on the NDUP Condition in order to understand the standards AT&T applies to Condition compliance. *See* First ICO Report at 39. The Company responded by identifying by name, title, and location the individuals who received training specific to the NDUP Condition and more general Merger Condition training that included a discussion of the NDUP Condition. As of the date of the ICO’s meeting with the NDUP working team, **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] AT&T management and staff had received

³⁰ The ICO notes that the Second Report, unlike the first, contains an explicit statement that AT&T has not discriminated in favor of its own video services during the current period. *See* Second Report at 26.

³¹ *See* note 29 above. The ICO appreciates the economic reality that AT&T’s policy of discounting unlimited broadband usage for those customers who buy AT&T’s traditional cable (or satellite) TV service is in effect a discount for the TV service, thereby favoring it to some degree in the overall market for video content. However, the ICO also understands that the Merger Order explicitly did not prohibit this bundling discount. This is because the Condition is aimed at discrimination *within the broadband context*. *See* App. B §IV.1 (“Following the transaction, the Company will have additional incentives to . . . limit consumers’ access to online video distribution services in order to favor the U-verse or DIRECTV Video Programming product or the combined entity’s online Video Programming products.”) While AT&T’s discounted bundling offer may have the effect of increasing the number of customers opting to purchase (or retain) DirecTV or U-verse service, the offer does not limit access to competitors’ online video distribution services or limit subscriber demand for competitors’ video content. *See* App. B § IV.1.

training, and one or multiple training sessions had been convened almost every month dating back to August 2015.

The training sessions are conducted by AT&T's outside counsel, and reportedly include an overview of the Condition, an examination of its key terms and conditions, and a discussion of hypothetical customer offers that might implicate the Condition. AT&T has offered to address the ICO's questions related to the Company's compliance approach through discussions about particular offerings and promotions that could potentially implicate the Condition. The ICO assumes that this discussion would to some extent resemble the internal training sessions' use of hypotheticals, and thereby provide a window into the effects (and potentially, the effectiveness) of the training program as it pertains to Condition compliance. The ICO expects to employ this method in future reporting periods to discuss the Company's "DirecTV Now" service as that offering approaches its launch date.

Offers and Promotions

In response to the ICO's request, AT&T provided a description of various types of broadband offers that had gone to market from August 2015 through May 2016. The NDUP working team also provided additional detail, both in examples of internal forms and other documents and during a meeting with the ICO, regarding the compliance-review and approval process outlined in the Second Report. *See* Second Report at 29-30. The use of established procedures subject to multi-layered review (together with the training regimen) suggests that the Company has established a positive internal control environment to support Condition compliance.

Complaints

Having gained an understanding during the first reporting period about the potential sources of complaints and the Company's process for handling them, *see* First Report at 40-41, the ICO requested, for the current period, additional information about the substance of NDUP-related complaints. Because the Condition touches upon the behavior of customers and the effects of certain practices on competitors, the ICO believes these two constituencies (along with the trade press and advocacy groups who act as channels for them) are a likely source of information about a failure to abide by the NDUP Condition. The ICO therefore regularly monitors for any report from a competitor or an industry or advocacy group that might allege an unfair practice involving discriminatory treatment of online video content.

Direct customer complaints take on a somewhat different posture. While some may be lodged at the FCC and then referred to AT&T, many more are initiated by customers contacting AT&T directly. Complaints that are referred (from the FCC) or escalated (from call centers or regional offices) make their way to AT&T's Office of the President, which has established a process for tracking, assigning responsibility for follow-up depending on the type of case presented, and disposition. In response to the ICO's request, the NDUP working team provided a summary of all potentially NDUP-related complaints lodged through May 2016. The ICO reviewed this list, and discussed both the complaint-tracking and -investigation process and the body of complaints themselves with the Company during its meeting in June.³² The ICO did not

³² Complaints in general represent another source of detection of potential compliance-related issues. The Company's procedures for identifying, tracking, and resolving them provide another opportunity to evaluate internal controls in support of Merger Condition compliance. For these reasons, the ICO requested a periodic summary of complaints. AT&T agreed to report on complaints it receives according to a working protocol, which is discussed below.

detect in this review any indications that the Company had failed to meet its obligations under the NDUP Condition.

NDUP Observation 3: Validation of NDUP Condition compliance is an ongoing exercise.

The Second Report states that AT&T has complied with Condition requirements, and the Company has provided the ICO with additional detail that suggests a great deal of attention, at high levels, devoted to the effort. The nature of the Condition itself presents something of a challenge to an independent, proactive review, and the ICO continues to consider ways to test AT&T's compliance while keeping his antenna up for external reports suggestive of a failure to comply. The ICO looks forward to discussing the Company's DirecTV Now offering as a real-time test case of AT&T's approach to NDUP Condition compliance.

3. DISCOUNTED BROADBAND SERVICES PROGRAM CONDITION

DBS Observation 1: AT&T's DBS Program reporting satisfies Condition requirements.

The ICO has reviewed the Second Report (and Exhibit 8) with reference to the reporting requirements set forth in Appendix B. The ICO confirmed that the DBS program (the "Program") launched as "Access from AT&T" on April 22, 2016 (the "Launch Date") as required by the Merger Condition.³³ *See also* Second Report at 9. AT&T has reported on the number of participating households, described the outreach efforts made during the reporting period to publicize the Program to schools and community-based organizations, and provided an analysis of Program effectiveness. *See* App. B. § VI.2.i.; Second Report at 37-51. The Company has also described its compliance with Merger Condition requirements with respect to Program eligibility, product availability, and installation (App. B § VI.2.a.-e. & h.; Second

³³ The DBS program must be established within nine months of the merger closing date. App. B § VI.2.

Report at 34-37); consumer-facing marketing and internal sales training (App. B VI § VI.2.f.; Second Report at 38-39); and targeted community-based outreach (App. B. VI.2.g.; Second Report at 39-45). In summary, ATT has addressed the conditions set forth in subsection VI.5.a.-h. of Appendix B and delivered a report that satisfies subsection 5.i.

DBS Observation 2: AT&T's DBS Program launched on time and appears to be operating in accordance with Condition requirements.

Having reviewed information provided by AT&T in various formats (e.g., screen-share meetings, presentations, and documents provided in response to the ICO's requests), and conducted certain independent testing, the ICO confirmed that the DBS Program was established and became operational as of April 22, 2016. Specific program details include the following, as reported by AT&T (with the ICO's additional observations noted):

- Eligible customers are provisioned at the highest speed available at their location as required by the Condition,³⁴ with applicable pricing provided. Customer billing reflects applicable discounted pricing for service.
- Applicants are required to provide evidence of participation in SNAP (or SSI in California).
- AT&T has confirmed that Program customers are not subject to any installation fees or modem charges as part of participating in the Program. The ICO's review of marketing collateral and monitoring of call center activity confirms this to be the case.
- The application process **[BEGIN CONFIDENTIAL INFORMATION]**
[END CONFIDENTIAL INFORMATION] and waives requirements that would prevent participation by customers with outstanding debts associated with wireline services incurred more than six months before their application date.
- The Access from AT&T website was live on April 22, 2016 as of 12:01 am ET; dedicated program websites were operational, and media outlets ran press releases about the Program (18 traditional media outlets, 12 national and 6 regional).

³⁴ 10, 5, or 3 Mbps, as the case may be. See App. B § VI.2.a-b. The ICO understands that the Company recently announced plans to modify the Program to include speed tiers below 3 Mbps.

- From April 22-25, 2016, Access from AT&T was promoted and mentioned in numerous mainstream media and social media forums.
- On April 22, 2016, AT&T documented [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] unique views of “Access from AT&T” on its website, and [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] visits to its “Apply Now” Link.
- By April 25, 2016, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] AT&T’s third-party partner responsible for customer call-center support, had handled [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] calls related to the Program.
- As of April 25, 2016, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] AT&T’s third-party partner responsible for managing applicant eligibility processes, approved [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] applications and denied [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] applications (incomplete supporting documentation being [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] reason for denial).
- [BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION]

- Protocols and processes are in place to determine if DBS Program applicants meet requirements regarding SNAP eligibility from the outset, to include annual recertification of eligibility and other requirements. AT&T has partnered with a third-party vendor, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] to conduct SNAP and other eligibility/verification checks at the time of application. For annual recertification of SNAP eligibility, the designated vendor will also manage customer notifications and related verification activities.
- AT&T reports that it is committed to ensuring the DBS Program will remain in effect for a four-year period. Customers who sign up during the fourth year will receive at least twelve months of Program benefits from the date they sign up.

In addition to reviewing documentation and information provided by AT&T, the ICO has assessed the “Access from AT&T” website during the past reporting period for content, format,

and accessibility. The ICO has randomly navigated the website periodically, including on April 22, 2016, and at least twice per month since. In addition, the ICO has reviewed documentation and materials related to established protocols for managing the program from application to installation, and has monitored a number of customer interactions with call center agents.

The ICO notes that AT&T included a data usage limit policy with the Program as of April 22, 2016. Initial Program data caps were set at 150 GB, 300 GB, or 600 GB per month, depending on the provisioned speed tier. As of August 21, 2016, the data cap for 3 Mbps service remained at 150 GB per month, but the two higher speed caps were raised to 1 TB of data per month. The ICO plans to seek information in future periods about the number of AT&T customers that reach this limit and what, if any, impact the new caps have on the DBS Program.

Based on the information reported by AT&T to date and the ICO's independent assessment, the ICO observes that all key aspects of the DBS Program are under way pursuant to Condition requirements. Now that the Program is fully active, the ICO intends to engage in a more expansive testing of its operations during the next reporting period.

DBS Observation 3: AT&T has expanded the SNAP eligibility requirement to include the California Supplemental Security Income (SSI) program.

The ICO notes AT&T's voluntary adoption of the California SSI program as an alternative to SNAP for potential Program customers living in California. Participants receiving SSI assistance are otherwise ineligible for SNAP because both programs offer similar assistance. Although the DBS Condition specifies SNAP eligibility, AT&T has expanded Access from AT&T to encompass SSI participants.

In response to a request by the ICO, AT&T provided an update to the handling and management of SSI applicants from California. AT&T reported that the Company's expansion to SSI participants became effective as of July 21, 2016, and provided the following details:

- CA SSI "Access from AT&T" flyers were made available in English and Spanish.
- Seventeen organizations in California have confirmed support to help promote the program to SSI recipients, and an additional 185 organizations have been targeted as potential partners.
- There have been [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] SSI-submitted applications as of July 29 [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION]
- Dedicated call center vendors supporting Access from AT&T were trained on SSI in advance of the expansion launch date.

DBS Observation 4: AT&T has established a dedicated quality assurance team and a robust, internal monitoring process for the DBS Program.

AT&T has implemented a detailed quality assurance process. The Company outlined to the ICO two key areas of its application to the DBS Program. The first is to track and monitor Access from AT&T applicants [BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION]

With respect to its third-party partners, AT&T has reiterated a continued commitment to quality assurance and oversight by establishing a process of vendor monitoring [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] AT&T has informed the ICO that the Company is also providing [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

AT&T also intends to perform periodic database validations to ensure that all approved customers receive the DBS Program offer. For future reports, the ICO plans to validate AT&T's monitoring and quality assurance processes by observing these validations in real time as well to review the outcomes of audits and monitoring reports. In support of this effort, the ICO intends to coordinate with the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] team periodically and participate in joint monitoring activities where appropriate.

DBS Observation 5: AT&T has delegated various aspects of its DBS Program to third-party partners and has established corresponding oversight and management protocols.

In order to determine what aspects of the DBS Program Condition have been delegated to third parties and the level of AT&T management and oversight applied to them, the ICO requested that AT&T identify all third parties supporting the DBS Program, including points of contact, a description of the specific work and activities these entities are undertaking on behalf of AT&T, and copies of contracts and statements of work. AT&T identified five key suppliers supporting the DBS Program thus far [BEGIN CONFIDENTIAL INFORMATION]:

[END CONFIDENTIAL INFORMATION]

DBS Observation 6: As part of its marketing efforts, AT&T has provided a link on its consumer-facing homepage dedicated to its DBS Program and trained its customer service representatives.

“Access from AT&T” Link

AT&T has established a dedicated webpage devoted to the DBS Program that links from the Company homepage and is part of AT&T’s global navigation (att.com/access). Desktop and mobile versions are available in various languages, including English and Spanish. The ICO has examined the webpage and found it to be fully active and accessible since the Launch Date. It provides key Program information, including eligibility details, cost, speeds available, and contacts and resources.

The ICO notes that reaching the “Access from ATT” site from other ATT web pages is not always obvious to the user. For instance, “<https://www.att.com/internet/>” has no obvious connection to the DBS program. The search engine from that page finds the DBS program with an entry of “internet discount.” However, an entry of “discount” does not list the DBS program within the first several hundred hits. The ICO further notes that the AT&T DBS Program link on its consumer-facing homepage may be difficult to locate for inexperienced internet users unless they know specifically what to look for and where to find it. Currently, the “Access from AT&T” link on the homepage is listed inconspicuously in the “Looking for More?” section at the bottom of the page and can also be found only after navigating to it through the available “Internet” shopping options. The ICO encourages AT&T to consider opportunities to display the

³⁵ AT&T also reported using LanguageLine Solutions for interpreter services. The ICO has requested additional details about this engagement and related oversight.

DBS Program “Access from AT&T” link more prominently on its consumer-facing homepage to better promote and market the offering to target audiences and to provide easier access to the dedicated webpage.

Training of Customer Service Representatives

AT&T has reported that internal training and awareness programs are in place and that all customer service and other representatives who might touch the DBS Program are knowledgeable of program benefits, restrictions, application processes, and other Condition requirements. AT&T provided the following additional details to the ICO:

- Dedicated DBS Program Customer Service Centers. Ongoing training programs are in place, and all customer services agents associated with the DBS Program, including third-party vendor representatives, were trained prior to the Program launch on April 22, 2016.
- Other targeted personnel training and awareness efforts include **[BEGIN CONFIDENTIAL INFORMATION]**
[END CONFIDENTIAL INFORMATION]
- Generally, training and awareness efforts are targeted to reach all resources that are part of the DBS Program directly, as well as others in the Company who may be linked indirectly through other AT&T programs and services.
- Training is currently conducted and provided through various methods, including web-based, leader-led, webinars, workshops, and weekly meetings.

AT&T has provided the ICO with various training materials used in connection with the Program, as well as training rosters and other related resources. The ICO’s assessment of these materials, as well as the overall training program itself, is under way. The ICO anticipates seeking further clarification from AT&T on the depth of training provided in all areas of the DBS Program, along with greater specificity regarding completion statistics, timing of respective training, level of retention by participants, and overall effectiveness of the training generally. An example observation with respect to training is the ICO’s monitoring of call-center interactions

with applicants and customers that, as described below, identified some potential gaps and opportunities for improvement in Program training. In addition, various sample training materials provided by AT&T during the reporting period revealed inconsistencies in format, content, and approach. These points, while likely minor in and of themselves, may suggest opportunities for improvement in overall continuity and effectiveness.

The ICO considers training and internal awareness efforts regarding the DBS Program to be integral components of the Program and among the keys to its success. For future reporting periods, the ICO will continue to evaluate and review information provided by AT&T, conduct independent observations of related activities, both onsite and otherwise, and monitor call center interactions, among things, to verify AT&T's progress in this area

DBS Observation 7: AT&T is satisfying its targeted outreach efforts as required by the Condition.

Outreach Activities

AT&T has engaged in extensive efforts to meet its outreach obligations under the DBS Program Condition. The Company provided the following update regarding outreach activities and milestones, with the ICO's comments noted where applicable:

- AT&T has reported that the \$15 million required threshold related to promotional activities, including public service announcements, will be met or exceeded annually. (The ICO plans to conduct periodic monitoring of this requirement.)
- AT&T has reported that it is exceeding standards with respect to marketing and outreach efforts generally across Condition requirements. The Company has established an outreach committee, which consists of representatives from External Affairs and Public Affairs.
- Specific outreach strategies include:
 - using a multi-tiered approach in meeting outreach requirements to allow for redundancies and message saturation;

- collaborating with key anchor agencies (e.g., SNAP, HUD, NSLP) to promote the Program to eligible participants and regional partner organizations;
 - leveraging AT&T's existing partnerships with national and local organizations to promote the Program to specific targets identified by the Condition (e.g., organizations, schools, administrators);
 - using local events, trainings and sponsorships as key promotional and “activation” opportunities; and
 - outsourcing more complex and large-scale outreach (e.g., school districts) to expert organizations, such as EveryoneOn.
- To ensure an accurate and in-depth reporting of AT&T outreach efforts, the tracking of organizations’ promotional activities has been delegated and outsourced to third-party partner Connected Nation.

With respect to the requirement to distribute DBS Program information to at least 20 organizations that work with low-income communities on a national and local level, AT&T reported to the ICO that the Company has reached more than 1,150 total organizations to date. In response to a request by the ICO, AT&T provided lists of national and state organizations and employee resource groups that it has contacted to seek assistance in promoting the Program. The Company also provided a list of conferences and speaking engagements where the DBS Program will be highlighted.

AT&T provided the ICO with a list of 16 national organization partnerships and 36 state and local partnerships that have been contacted. Most of these organizations have multiple branches, some have regional branches, and most have state and local branches. Of the 16 national organization partnerships, six had a direct link on their websites to the Access from AT&T webpage as part of a hosted article, a posted AT&T from Access flyer, or an independent article about the DBS Program. Three of the six organizations used a post about Access from AT&T on their Facebook accounts as a means of sharing the information.

Of the 36 state and local organization partnerships, two had a direct link to the Access from AT&T webpage. One organization partnership may be responsible for more than one result. For example, the “Agency On Aging” was represented according to what appear to be three different states where it has operations. The ICO also discovered seven independent internet-based news articles about the DBS Program, as well as one multimedia platform distributor that appeared to carry an article submitted by AT&T.

In addition, the ICO performed assessments of many of AT&T’s reported outreach activities. Examples of this assessment activity include:

- Observation of an EveryoneOn webinar promoting awareness and education about the Program. The event was well attended, with an estimated 105 participants and a reported 39 unique school districts represented within the AT&T footprint. The content, format, and presentation were clear, concise, easily understood, and mapped neatly onto Condition requirements. The ICO believes this is an excellent example of successful collaboration between AT&T and one of its third-party partners to reach target audience schools within the AT&T mapping footprint.
- Other validation efforts included internet browser and general social media searches for Access from AT&T paired with AT&T’s reported organization partnerships. The ICO was able to find the AT&T DBS Program in considerable evidence on the internet, with virtually all sources correctly describing it as a discounted program open to households with a least one SNAP participant.

Distribution of Promotional and Collateral Material

AT&T reports that it is making contact and providing promotional and collateral material to public school districts within the AT&T wireline footprint and has requested materials be included in the NSLP mailings. AT&T’s third-party partner EveryoneOn is responsible for communicating with all school districts within the AT&T wireline footprint about the Program, has hosted three webinars, and has made contact with nearly 600 school districts about the Program. In addition, a “Partner Portal” has been established to enable schools and other organizations to access information and collateral related to the DBS Program, including through

the NSLP program. Partner organizations, including education, government agencies, and non-profits, can register directly on the portal to access outreach materials. For the next reporting period, the ICO will take steps to validate that schools were in fact contacted as required under the Condition related to the NSLP program.

AT&T has initiated an education program for school professionals about the DBS Program through various education-related associations. The Company reports that it has reached out to various education-related associations, such as parent-teacher associations and other associations representing guidance counselors and social workers, in order to provide information about the DBS Program to those who are most likely to work closely with students and families. The ICO intends to monitor these efforts with schools and related associations during future reporting periods.

Content of Program Collateral

AT&T has provided the ICO with samples of various collateral materials used to promote the DBS Program. The samples provided include flyers (both general and targeted at specific audiences), a television and radio spot, print advertisements, sample emails to schools, and other promotional material. Flyers are offered in seven languages: Arabic, Chinese, English, Haitian, Creole, Korean, Spanish, and Vietnamese, and the radio and television spots are offered in English and Spanish. As of July 12, 2016, all materials referred to both SNAP and CA SSI participant eligibility as a qualifying factor for the Program. Most recent collateral materials provided and used by AT&T now include disclaimers and references to data cap allowances applied to the DBS Program. Radio and television spots also contain references to the data cap allowance. The marketing materials contain appropriate information regarding eligibility,

Program highlights, references to restrictions that may apply, and instructions about how to obtain more information in a manner that should appeal to the target audiences.

DBS Observation 8: AT&T has established a dedicated phone number and process to verify DBS Program eligibility, and qualifying callers are transferred to a centralized order-entry center.

AT&T has established dedicated and managed DBS Program application channels to include phone support, online, mail service, and fax. Eligibility is verified by **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** a third-party vendor. AT&T has provided a detailed “Application Review” matrix that outlines requirements for the application, how eligibility is evaluated and determined, and general disposition handling, from first contact with AT&T through installation and enrollment in the DBS Program. For any DBS Program application denials, AT&T has established a protocol for attempting to resolve any discrepancies where possible, and indicated its intentions to track and evaluate metrics related to these denials throughout the lifespan of the DBS Program.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

The ICO initiated auditing and assessment of call center interactions, which involves listening to a sampling of recorded calls with DBS Program customers and potential customers, redacted for personally identifying information. As a test of the plan for ongoing monitoring, the

initial sampling for this reporting period included listening to ten randomly selected calls chosen by the ICO. Key areas of consideration for monitoring include agent knowledge and understanding of the DBS Program, handling of applications, enrollment and installation orders, and customer service effectiveness generally. The ICO made the following observations pursuant to the preliminary review:

- There appeared to be inconsistencies among call-center representatives when providing information about acceptable methods of accessing and submitting applications for the DBS Program, and also about timing with respect to application responses. At least one of the callers could have benefited from potential translation services, but this option (which the ICO understands is available) was not considered or offered.
- Only a few of the representatives mentioned data usage allowances when describing the DBS Program to prospective customers.
- There were some inconsistencies in describing DBS Program benefits and restrictions to consumers.

These observations led to the following recommendations:

- There is a need for additional training to increase overall knowledge of the DBS Program generally.
- Additional clarity may be needed in certain areas regarding protocols to ensure consistency in information provided to consumers.
- There may be a need for additional oversight in call center interactions as the program progresses and matures.

The ICO intends to engage in further monitoring during the next reporting period and beyond, to include more frequent monitoring of recorded calls, potential on-site call-center visits, closer consultation and observations of AT&T's **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** quality assurance team, and assessments of call center personnel to gain better insight into overall knowledge and effectiveness of training.

DBS Concluding Observations

The DBS Program is an important initiative and a substantial undertaking. The ICO recognizes that the Program is new, and is still in its early stages of implementation. As required by the Condition, AT&T should continue to monitor and nurture the Program. At this point, the Program appears to be operating well, and the ICO notes that areas for improvement, particularly with respect to training brand-new personnel on a brand-new product, are to be expected.

DBS PROGRAM RECOMMENDATIONS

1. The ICO recommends that the Company consider opportunities to display the DBS Program webpage link more prominently on its consumer-facing homepage to better promote and market the offering to target audiences and to provide easier access to the dedicated webpage.
2. The ICO recommends that the Company continue to improve the training and monitoring of customer service representatives in order to provide clear and consistent information to customers.

OBSERVATIONS ON AT&T'S COMPLAINT REPORTING PROCESS

The ICO approached the request for reports about AT&T's complaint tracking process with two objectives. The first was to assess the sufficiency of the process established by the Company to ensure that complaints received through various channels that relate to possible violations of the Merger Conditions are adequately investigated and addressed. The second was to give the ICO greater visibility into potential violations and the Company's remediation efforts, if required.

Complaint Process Observation 1: AT&T has established a reasonable process to screen and identify complaints potentially relating to Merger Condition violations.

During the second reporting period, the ICO requested that AT&T develop and share a process to identify complaints that come to the Company from various sources in order to

determine whether any of those complaints allege, directly or indirectly, a possible violation of any of the Merger Conditions. The ICO commented on an initial draft, after which the Company provided a process outline in early June. Some of the key components of the process are described below.

Identifying and Resolving Complaints Alleging a Merger Condition Violation

Multiple offices within AT&T can receive complaints from a variety of sources. The AT&T Office of the President (OOP), External Affairs (EA), and AT&T's Legal Group all routinely receive complaints from escalations of customer issues. Other sources include FCC formal and informal complaints, FCC Enforcement Bureau inquiries, and complaints lodged in federal district court. AT&T's process for screening complaints involves the following actions:

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

Providing Information About Complaints to the ICO

The AT&T complaint reporting process as written provides the ICO with sufficient information and insight into complaints to permit the ICO to catch any substantive issues relating to the Merger Conditions that might arise in the form of complaints. Specifically, the process calls for the Project Management Team to provide the ICO with a summary log of all complaints received during the reporting period that the Project Management Team has determined to allege, either directly or indirectly, a Merger Condition violation. The summary log will include, among other things, how the complaint was resolved or, if pending, its current status.

The Project Management Team will also provide the ICO with a summary log of a sample of complaints received during the reporting period that were referred to the Project Management Team under the reporting process, but that the Project Management Team determined did not in fact allege a violation of a Merger Condition. The summary log will include, among other things, the nature of the complaint and the basis for the Project Management Team's determination that the complaint did not relate to a Merger Condition violation. AT&T has agreed to make available to the ICO copies of the actual written complaints (with appropriate redactions, if needed) upon request.

Complaint Process Observation 2: Initial results from the new complaint reporting process reveal that none of the complaints submitted during this reporting period represent an actual Merger Condition violation.

AT&T provided the first set of complaint summary logs to the ICO on August 16, 2016. As anticipated by the process outline, one summary log contained a sample of the complaints received during the reporting that were referred to the Project Management Team under the reporting process identified above, but that the team concluded did not allege a violation of a

Merger Condition. A second summary log described all complaints received during the reporting period that the Project Management Team determined did, in fact, allege a Merger Condition violation (either directly or indirectly). The actual written complaints contained in the summary logs were also posted (with necessary redactions) to the extranet site of AT&T's outside counsel.

Upon reviewing the information AT&T provided, the ICO concurs with the Company's conclusions regarding the complaints received during this reporting period. There were no complaints received that explicitly referred to a "Merger Condition violation," but there were [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints that generally asserted (incorrectly, according to AT&T) that the Company is applying its usage allowance policy to favor DirecTV and harm online video distributors. AT&T noted that these complaints misconstrue the Company's usage allowance policies. AT&T concludes, and the ICO concurs, that none of these complaints represent an actual Merger Condition violation.

The ICO notes that the complaint reporting process appears designed to help ensure that complaints within the Company's knowledge that raise substantive Merger Condition-related issues are brought to the ICO's attention.

Complaint Process Observation 3: AT&T has proposed additional refinements to the reporting process.

In order to make the complaint reporting process as efficient and manageable as possible, AT&T proposed the following refinements for future reporting periods:

- For complaints that were identified as Merger-related by OOP/EA but were found by the Project Management Team not to allege a violation, AT&T will provide a sample log of such complaints to the ICO. If 20 or fewer such complaints are identified, AT&T will provide a summary log of all of those complaints. If 21 or more such complaints are

identified, AT&T will provide a sample of 20 complaints using a statistically valid sampling technique.

- During this reporting period, the summary logs contained closed complaints related to the discounted broadband and non-discrimination condition only. For future reports, AT&T has agreed to include summaries of complaints relating to all of the Merger Conditions, and will implement a process to include both pending and closed complaints during the relevant reporting period.
- AT&T has indicated a goal of providing the ICO with a report with summary logs on the 15th of every month, 45 days after the close of the month being reported. (For example, the ICO can expect to receive a report on August complaints by October 15.)

The ICO concurs in general with these process refinements, and will continue to work with AT&T so as to maximize the usefulness of the complaint reporting process to the ICO's monitoring efforts.

SUMMARY OF RECOMMENDATIONS

1. Provide an updated FTTP reporting process document when complete.
2. Provide a summary of the results of the FTTP data-cleaning review.
3. Provide further opportunities for live demonstrations of queries that support reported compliance with FTTP Condition deployment totals as well as specified subcategory limits and exclusions.
4. Consider opportunities to display the DBS Program webpage link more prominently on AT&T's consumer-facing homepage.
5. Continue to improve the training and monitoring of DBS Program customer service representatives.